

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

COMMIL USA, LLC

§

§

§

v.

§ CIVIL ACTION NO. 2:07-CV-341 (CE)

§

CISCO SYSTEMS, INC., ET AL

§

**Jury Trial Day One
May 11, 2010**

OPEN: 8:30 a.m.

ADJOURN: 5:07 p.m.

ATTORNEYS FOR PLAINTIFF:

Richard “Dick” Sayles
Eve Henson
Chris Hogue
Mark Werbner
Mark Strachan

ATTORNEYS FOR DEFENDANTS:

Otis Carroll
Nicholas Groombridge
Harrison “Buzz” Frahn
Johnny Ward
Patrick King
Etain Lahav
Mike Jones

LAW CLERK:

Jim Warriner

COURT REPORTER:

Shelly Holmes, CSR

COURTROOM DEPUTY:

Jan Lockhart

8:30 a.m. Court opened. Hearing outside the presence of the jury. Juror #6 excused due to health issues – no objection by either party.

8:33 a.m. Court recess.

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8:34 a.m. Court opened. Jury in courtroom. Court gave the jury preliminary instructions.

8:57 a.m. The Court asked the parties if the rule was to be invoked. Mr. Sayles indicated no objection to witnesses remaining in the courtroom. Mr. Fran indicated that Cisco wanted the witnesses to remain outside the courtroom. Mr. Groombridge requested that the rule be invoked but that the witnesses be allowed to remain in the courtroom during opening statement.

Witnesses present in the courtroom were sworn and given instructions by the Court.

8:59 a.m. Mr. Werbner conducted opening statement on behalf of Plaintiff.

9:41 a.m. Mr. Fran conducted opening statement on behalf of Defendant Cisco.

10:01 a.m. Mr. Groombridge conducted opening statement on behalf of Defendant Aruba.

10:22 a.m. Jury excused for morning recess.

10:23 a.m. Bench conference.

10:25 a.m. Court adjourned.

10:53 a.m. Jury returned to courtroom but excused for bench conference.

10:54 a.m. Bench conference. Court recess.

11:02 a.m. Mr. Werbner called Mr. Joe McAlexander to testify. Mr. McAlexander was previously sworn. Mr. Werbner examined Mr. McAlexander under oath.

11:21 a.m. Mr. Werbner offered Mr. McAlexander as an expert. Mr. Frahn indicated there were no objections. Mr. Werbner continued his examination of Mr. McAlexander.

12:01 p.m. Lunch recess until 1:15 p.m.

1:18 p.m. Mr. Werbner continued his examination of Mr. McAlexander.

1:48 p.m. Mr. Frahn objected to question. Mr. Werbner continued his examination of the witness.

2:01 p.m. The Court questioned the witness. The witness responded.

2:02 p.m. Mr. Werbner continued his examination of Mr. McAlexander.

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2:10 p.m. Mr. Frahn objected to the question. Bench conference.

2:11 p.m. Mr. Werbner continued his examination of Mr. McAlexander.

2:50 p.m. Mr. Frahn conducted cross examination of Mr. McAlexander.

2:52 p.m. The Court gave the witness instruction re answering questions.

2:53 p.m. Mr. Frahn continued his examination of Mr. McAlexander.

2:55 p.m. Bench conference.

2:56 p.m. Mr. Frahn continued his examination of Mr. McAlexander.

2:58 p.m. Deposition of Mr. McAlexander shown.

2:59 p.m. Mr. Frahn continued his examination of Mr. McAlexander.

3:02 p.m. Bench conference.

3:03 p.m. Bench conference. Jury excused until 3:25 p.m.

3:04 p.m. Hearing outside the presence of the jury.

3:06 p.m. Recess until 3:25 p.m.

3:28 p.m. Mr. Frahn continued his cross examination of Mr. McAlexander.

3:34 p.m. The Court gave the witness instruction re answering the question. The witness answered the question posed by :Mr. Frahn.

3:43 p.m. The Court spoke to the witness about answering the question. Mr. McAlexander continued his answer.

3:44 p.m. Mr. Frahn continued his examination of Mr. McAlexander.

4:12 p.m. Court asked question to witness. Mr. Alexander responded. Mr. Frahn continued his examination of Mr. Alexander.

4:17 p.m. Mr. Frahn read Mr. McAlexander's deposition.

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4:18 p.m. Mr. Werbner objected to the manner of the question. The Court overruled the objection.

4:23 p.m. Court gave instruction re other patents. Mr. Frahn continued his examination of Mr. McAlexander.

4:27 p.m. Mr. Werbner conducted re-direct examination of Mr. McAlexander.

4:43 p.m. The parties passed the witness. Mr. Werbner called Yaron Soffer to testify. Mr. Soffer was sworn and examined under oath.

4:59 a.m. Bench conference.

4:59 p.m. Mr. Werbner conducted interim statement on behalf of Plaintiff.

5:01 p.m. Mr. Frahn conducted interim statement on behalf of Defendant.

5:06 p.m. Mr. Werbner conducted rebuttal interim statement on behalf of Plaintiff.

5:07 p.m. Court adjourned.